

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 203 be amended to read as follows:

- 1 Page 2, between lines 18 and 19, begin a new paragraph and insert:
- 2 "SECTION 2. IC 34-23-2-1 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. (a)
- 4 As used in this section, "child" means an unmarried individual without
- 5 dependents who is:
- 6 (1) less than twenty (20) years of age; ~~or~~
- 7 (2) less than twenty-three (23) years of age and is enrolled in an
- 8 institution of higher education or in a vocational school or program
- 9 **or is engaged in military service; or**
- 10 **(3) less than twenty-five (25) years of age and is a military**
- 11 **veteran enrolled in an institution of higher education or a**
- 12 **vocational school following active military service.**
- 13 (b) An action may be maintained under this section against the
- 14 person whose wrongful act or omission caused the injury or death of
- 15 a child. The action may be maintained by:
- 16 (1) the father and mother jointly, or either of them by naming the
- 17 other parent as a codefendant to answer as to his or her interest;
- 18 (2) in case of divorce or dissolution of marriage, the person to
- 19 whom custody of the child was awarded; and
- 20 (3) a guardian, for the injury or death of a protected person.
- 21 (c) In case of death of the person to whom custody of a child was
- 22 awarded, a personal representative shall be appointed to maintain the
- 23 action for the injury or death of the child.
- 24 (d) In an action brought by a guardian for an injury to a protected

1 person, the damages inure to the benefit of the protected person.

2 (e) In an action to recover for the death of a child, the plaintiff may
3 recover damages:

- 4 (1) for the loss of the child's services;
5 (2) for the loss of the child's love and companionship; and
6 (3) to pay the expenses of:
7 (A) health care and hospitalization necessitated by the wrongful
8 act or omission that caused the child's death;
9 (B) the child's funeral and burial;
10 (C) the reasonable expense of psychiatric and psychological
11 counseling incurred by a surviving parent or minor sibling of
12 the child that is required because of the death of the child;
13 (D) uninsured debts of the child, including debts for which a
14 parent is obligated on behalf of the child; and
15 (E) the administration of the child's estate, including reasonable
16 attorney's fees.

17 (f) Damages may be awarded under this section only with respect
18 to the period of time from the death of the child until:

- 19 (1) the date that the child would have reached:
20 (A) twenty (20) years of age; ~~or~~
21 (B) twenty-three (23) years of age, if the child was enrolled in
22 an institution of higher education or in a vocational school or
23 ~~program; or program or was engaged in military service; or~~
24 **(C) twenty-five (25) years of age, if the child was a**
25 **military veteran and was enrolled in an institution of**
26 **higher education or a vocational school following active**
27 **military service; or**

28 (2) the date of the child's last surviving parent's death;
29 whichever first occurs.

30 (g) Damages may be awarded under subsection (e)(2) only with
31 respect to the period of time from the death of the child until the date
32 of the child's last surviving parent's death.

33 (h) Damages awarded under subsection (e)(1), (e)(2), (e)(3)(C), and
34 (e)(3)(D) inure to the benefit of:

- 35 (1) the father and mother jointly if both parents had custody of the
36 child;
37 (2) the custodial parent, or custodial grandparent, and the
38 noncustodial parent of the deceased child as apportioned by the
39 court according to their respective losses; or
40 (3) a custodial grandparent of the child if the child was not
41 survived by a parent entitled to benefit under this section.

42 However, a parent or grandparent who abandoned a deceased child
43 while the child was alive is not entitled to any recovery under this
44 chapter.

45 SECTION 3. [EFFECTIVE UPON PASSAGE] IC 34-23-2-1, as

- 1 **amended by this act, applies to causes of action accruing after**
- 2 **June 30, 2003."**
- 3 Renumber all SECTIONS consecutively.
 (Reference is to ESB 203 as printed February 13, 2004.)

Representative Koch